ORDINANCE NO. 3 SERIES 1977

AN ORDINANCE GRANTING TO CALIFORNIA-PACIFIC UTILITIES COMPANY AN ELECTRIC LIGHT, HEAT AND POWER FRANCHISE.

The City of Elgin, Union County, Oregon, ordains as follows:

Section 1

There is hereby granted to California-Pacific Utilities Company, a California Corporation authorized to do business in Oregon, its successors and assigns, hereinafter called the Grantee, the right, privilege, and franchise, from the effective date of this ordinance, to generate electricity and to construct, maintain and operate, in, upon, over, across and under the present and future streets, alleys, and public places in the City of Elgin, Oregon, electric light and power lines together with all the necessary and desirable appurtenances, including but not limited to conduits, poles, towers, wires, transmission lines, distribution lines and communication circuits, for the purpose of supplying electricity to said City, the inhabitants thereof, and persons and corporations beyond the limits thereof, for light, heat, power and other purposes.

Section 2

Before constructing any facilities in the streets, alleys or public places of the City of Elgin under this franchise, Grantee shall secure approval of the location of such facilities from the City Council of the City of Elgin or from an officer of said City authorized by the City Council to grant such approval. No such facilities shall be constructed at locations not so approved.

Section 3

If Grantee makes any excavation, or in any manner interfers with any street, alley, sidewalk, cross-walk, pavement, or other public places within the City of Elgin, Grantee shall, within a reasonable time, put the same in as good condition as it was before such excavation or interference, and if

Grantee fails to do so, said City of Elgin may perform the necessary work and Grantee, by the acceptance of this franchise, agrees to pay the expense of the same.

Section 4

The City of Elgin shall in no way be liable or responsible for any accident or damage that may occur in the construction, operation or maintenance by Grantee of its generation, transmission or distribution facilities, and the acceptance of this franchise shall be deemed an agreement on the part of Grantee, to indemnify said City and hold it harmless against any and all liability, loss, cost, damage or expense which may accrue to said City by reason of the neglect, default or misconduct of Grantee in the construction, operation or maintenance of its generation, transmission or distribution facilities under this franchise.

Section 5

This franchise shall not be exclusive and the granting of said franchise shall not be considered as any limitation on the right of said City to grant a similar franchise or similar franchises to other persons or corporations for furnishing electricity to said City and its inhabitants.

Section 6

The term of the franchise hereby granted shall commence on the effective date of this ordinance hereinafter designated and shall continue in effect for a period of 10 years from and after said date.

Section 7

In further consideration of the rights, privileges and franchise hereby granted, said Grantee shall pay to the City of Elgin three percent (3%) of the "gross revenues" of the Grantee from its sale and distribution of electrical

energy within the corporate limits of the City of Elgin, less net uncollectibles. Gross revenues shall include revenues from the use, rental or lease of operating facilities of the Grantee other than residential-type space and water heating equipment. Gross revenues shall not include proceeds from the sale of bonds, mortgages, securities or stocks, sales at wholesale to another utility when the utility purchasing the service is not the ultimate consumer, revenue from joint pole use, revenue paid by the United States of America or any of its agencies or revenue paid by the City of Elgin. Payments are to be made semi-annually during the term of this franchise which commences April 12, 1977. Said semi-annual payments to be made 30 days after the close of each six-month period. A sworn statement of the gross revenues of the Grantee from the sale of electrical energy within the corporate limits of the City of Elgin shall be filed with the City Recorder of the City of Elgin by the Grantee at the time of the payment of said three percent (3%). Such three percent (3%) payments made by the Grantee will be accepted by the City of Elgin from the Grantee if the Grantee accepts this franchise in lieu of any further license, privilege, or occupation tax, or fee for revenue or regulation of the City of Elgin which may now or hereafter be imposed by ordinance of the City of Elgin during the term of this franchise.

Section 8

If any section, subsection, sentence, clause, or paragraph of this ordinance is for any reason held to be unconstitutional, void or unlawful, such decision shall not affect the remaining portions of this ordiance.

Section 9

This ordinance shall become effective thirty (30) days after its passage if the Grantee shall, within said thirty-day period, file its written acceptance thereof with the City Recorder of the City of Elgin, and in the event

That Grantee shall fail to so file its acceptance within said period, then this ordinance shall not become effective.

Passed by the City Council of Elgin, Oregon, and approved by the Mayor this 12 day of April, 1977

Rodney Klintoff
Mayor, City of Elgin

ATTEST:

Ronald D Scoubes

ORD #3

ACCEPTANCE OF FRANCHISE

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, CALIFORNIA-PACIFIC UTILITIES COMPANY, a California corporation, duly qualified to transact a public utility business in the State of Oregon, does hereby accept in writing all of the terms and conditions of Ordinance No. 3, SERIES 1977, of the CITY OF ELGIN duly passed by the City Council of the CITY OF ELGIN April 12, 1977, granting to the undersigned the right, privilege and franchise to operate throughout the CITY OF ELGIN as a public utility and to use the streets, alleys, avenues and public highways within the corporate limits of the CITY OF ELGIN to conduct its operations as an electric public utility.

CALIFORNIA-PACIFIC UTILITIES COMPANY

By C. L. Rasmussen
Vice President & Division Manager

Received for Recordation

April 22, 1977

Ronald D Scoubes, Recorder

CITY OF ELGIN